

1 MELINDA HAAG (CABN 132612)  
United States Attorney  
2  
3 MIRANDA KANE (CABN 150630)  
Chief, Criminal Division  
4  
5 OWEN P. MARTIKAN (CABN 177104)  
Assistant United States Attorney  
6  
7 450 Golden Gate Avenue, Box 36055  
San Francisco, California 94102  
Telephone: (415) 436-7241  
Facsimile: (415) 436-7234  
owen.martikan@usdoj.gov  
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9 Attorneys for Plaintiff

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN FRANCISCO DIVISION

13 UNITED STATES OF AMERICA, ) CR 11-70696 MAG  
14 )  
15 Plaintiff, )  
16 v. )  
17 GIUSEPPE PENZATO and KESIA )  
PENZATO, )  
18 Defendants. )  
19 \_\_\_\_\_

**STIPULATION AND [PROPOSED]  
ORDER CONTINUING DATE FOR  
PRELIMINARY HEARING OR  
ARRAIGNMENT TO JANUARY 24,  
2012**

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21 This case is currently set for preliminary hearing or arraignment on Monday, December  
22 19, 2011. The parties have been in pre-indictment negotiations, and the Government recently  
23 produced transcripts of translated recordings that both parties need to review. Defense counsel  
24 has informed Government counsel that additional recordings may exist, which would need to be  
25 translated from Portuguese to English. In order to further negotiations in this case, and to  
26 account for time during the holidays when defendants will be unavailable to their counsel, the  
27 parties request that the preliminary hearing and arraignment date be continued to January 24,  
28 2012.

STIP. & [PROPOSED] ORDER CONTINUING HRG.  
CASE NO. CR 11-70696 MAG

1 The parties further stipulate and ask the Court to order that time should be excluded from  
2 the Speedy Trial Act calculations from December 19, 2011, through January 24, 2012, for  
3 continuity of counsel and effective preparation of defense counsel, given the additional discovery  
4 that has been produced, the defendants' absence from the district during the holidays, and the  
5 contemplated further exchange of information and discovery between the parties. The parties  
6 represent that granting the continuance would allow the reasonable time necessary for effective  
7 preparation of defense counsel, while exercising due diligence. 18 U.S.C. § 3161(h)(7)(B)(iv).

8 The parties further stipulate that the ends of justice served by granting such a continuance  
9 outweigh the best interests of the public and the defendant in a speedy trial. *See* 18 U.S.C. §  
10 3161(h)(7)(A). For the same reasons, the parties stipulate and ask the Court to continue the  
11 preliminary hearing until January 24, 2012, pursuant to Fed. R. Crim. P. 5.1(d).

## **12 || SO STIPULATED:**

MELINDA HAAG  
United States Attorney

DATED: December 16, 2011

/s/  
OWEN P. MARTIKAN  
Assistant United States Attorney

DATED: December 16, 2011

GAIL SHIFMAN  
Attorney for Defendant Kesia Penzato

DATED: December 16, 2011

/s/  
**DOUG SCHWARTZ**  
Attorney for Defendant Giuseppe Penzato

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## [PROPOSED] ORDER

Per the parties' stipulation and for the reasons stated above, the preliminary hearing or arraignment for this matter is continued from December 19, 2011, to January 24, 2012. An exclusion of time from December 19, 2011, to January 24, 2012, is warranted because the ends of justice served by the continuance outweigh the best interests of the public and the defendant in a speedy trial. *See* 18 U.S.C. §3161 (h)(7)(A). The failure to grant the requested continuance would deny the defendant continuity of counsel, and would deny defense counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence, and would result in a miscarriage of justice. *See* 18 U.S.C. §3161(h)(7)(B)(iv).

SO ORDERED.

DATED: 12/19/11

